ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	)	
	)	
Establishment of Rules to Prohibit	)	
the Imposition of Unjust, Onerous	)	
Termination Penalties on Customers	)	CC Docket No. 99-142
Choosing to Partake of the Benefits	)	
of Local Exchange Telecommunications	)	
Competition	)	

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OFFICE OF THE SECRETARY

COMMENTS OF MGC COMMUNICATIONS INC.

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June 3, 1999

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COMMENTS OF MGC COMMUNICATIONS INC.

Pursuant to the Commission's Public Notice issued May 4, 1999 MGC Communications, Inc. ("MGC"), through counsel, respectfully submits the following comments in support of KMC Telecom Inc.'s ("KMC") Petition for Declaratory Ruling.[1]

MGC supports KMC's request that the Commission declare unlawful termination penalties imposed by incumbent local exchange carriers ("ILECs"), to prohibit enforcement of these ILEC termination penalties, and to require the removal of ILEC termination penalties from ILEC state tariffs until such time as competition providing consumers a true choice exists.

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[1] Pleading Cycle Established for Comments on KMC Telecom Inc. Petition for Declaratory Ruling, Public Notice, DA 99-836, CC Docket No. 99-142 (May 4, 1999). ("KMC Petition").

I. INTRODUCTION AND SUMMARY

MGC is a competitive local exchange carrier ("CLEC") offering facilities-based local and long distance voice and data services to residential and business consumers in five states: California, Nevada, Illinois, Georgia and Florida. MGC operates seven switches and is collocated in approximately 250 ILEC central offices. Currently, MGC has an addressable market of more than 12 million access lines.

MGC has been providing a choice for residential and small business customers since 1996, shortly before the enactment of the Telecommunications Act. Since that time, MGC and other CLECs have had to force their way into historically closed markets through litigation in order to compel ILECs to do what the law demands: end their ILEC monopoly on the local exchange market and open it to entities other than the ILECs. Such litigation, while consistently yielding the results sought by MGC and the CLEC industry,[2] at the same time drains away valuable resources that could be better utilized in the deployment of facilities that would further enhance competition. But even as CLECs win one battle, ILECs reach into their seemingly bottomless bag of anticompetitive tactics in further attempts to forestall competition.

Excessive termination penalties fall into the second wave of anti-competitive tactics. The first wave was to launch a frontal assault on the Act, challenging its constitutionality and the statutory authority of the FCC. That assault failed.[3] Now

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2 *See e.g. Deployment of Wireline Services Offering Advanced Telecommunications Capability,* CC Docket No. 98-147, *First Report and Order and Further Notice of Proposed Rulemaking* (rel. Mar. 31, 1999) (*"Advanced Services Collocation Order"*).

3 *See Iowa Utils. Bd. v. FCC,* 120 F.3d 753 (8th Cir. 1997) (*"Iowa Utils. Bd"*), *cert. granted sub nom., AT&T Corp. v. Iowa Utils. Bd.,* 118 S.Ct. 879 (1998), *aff'd in part, rev'd in part,* 119 S.Ct. 721 (1999) (*"AT&T"*).

ILECs are attempting to preserve their monopoly through a leveraged competitive reaction: they lock customers into long-term contracts that contain excessive termination penalties in order to dissuade customers from switching local carriers in the first place. For those customers they fail to tie to a long-term contract, the ILEC usually launches aggressive win-back programs to recapture their former market.[4]

The ILECs' seriatim waves of anti-competitive assaults have undermined the goals of the Act by delaying, or in some cases denying, competition in the local exchange market.

II. EXCESSIVE TERMINATION PENALTIES ARE HIDDEN IN CONTRACTS OR TARIFFS AND EMPLOYED FOR NO OTHER REASON THAN TO INHIBIT COMPETITION

In its Petition, KMC described in detail the methods ILECs utilize to impose excessive termination penalties: contract service arrangements and tariff term plans.[5] A 'typical' contract containing terminating penalties is one that was executed prior to the advent of local competition and provides that the customer is obligated to a long-term contract. If the customer switches carriers, an excessive penalty becomes due, usually amounting to the entire amount owing on the remainder of the contract.

Often the contract does not expressly detail the terminating penalty, but rather refers to an approved tariff on file with the respective state commission that provides for

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4 It has been MGC's experience that once MGC has requested a Customer Service Record from the ILEC, the ILEC will contact the prospective customer and aggressively try to win the customer back either by offering the customer a better rate or in some cases informing the customer that they have a long-term contract with the ILEC and that if the customer terminates the contract they will be subject to a large termination penalty.

5 *See* KMC Petition at 2.

a termination penalty in the event that particular service is discontinued by the customer. In some cases, MGC customers have stated that they knew nothing of a contract because they never signed anything, or found out about the alleged long-term contract when they decided to switch local service providers. For example, MGC obtained the business of a church in Southern California. The church was happy to switch local providers because they wanted to save money and MGC afforded the church that opportunity. However, once the church changed local service providers, it received a bill from the Incumbent LEC for approximately $12,000 for prematurely ending a long-term contract the church knew nothing about.

Long term contracts that are hidden in ILEC tariffs are becoming more prevalent as CLECs like MGC continue to grow. Typically, the prospective customer is being served by the ILEC (because they do not think they have a choice in local service) and have never been told of the existence of a contract or have never signed a contract with the ILEC. As mentioned above, the customer is first contacted by the ILEC after the Customer Service Record is requested by the CLEC. The initial ILEC contact is cordial, in attempt to retain the customer. However, once the ILEC understands the customer is switching to a competitor, the ILEC mentions the severe early termination penalties. Generally, the MGC customer that has been most greatly affected by this fact pattern is a small business or charitable organization that would like to save some money and is therefore very interested in taking advantage of the CLEC product offering. Other customers are merely dissatisfied with the ILEC.

ILECs utilize a strategy whereby they offer consumers service plans which incorporate by reference the ILEC's tariffed the rate as part of the plan's discount plan

that has been priced a certain way based on a long term contract. Additionally, many of MGC's customers have received a copy of the ILEC contract in the form of a bill insert that looks nothing like a contract. However, it has been MGC's experience that consumers are not aware of these long-term contracts and associated early termination penalties.

A customer presented with such a contract who wishes to ascertain the true meaning of the terms is faced with something akin to a genealogical research project. Ascertaining the meaning of the contract requires finding a document several generations removed from the offered service, and this presumes the customer actually saw a document at all before "agreeing" to purchase an ILECs services. Even if the customer had decided it was important to review the ILEC's written contract, in order to fully understand the terms of the contract that customer would have had to (1) find, retrieve, read and understand the tariff referenced in the contract, and (2) find, retrieve and read the Special Condition which detailed the excessive termination penalty. As important as this information is, it is of dubious relevance to a customer in a market lacking competition. Such a customer has two choices: either take service with (knowingly or not) an excessive termination penalty, or no service at all.

It has been MGC's experience that ILECs begin to employ contracts with excessive termination penalties, or seek tariffs with special conditions that provide for excessive termination penalties, in markets that are *poised* to experience competition.[6] he

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[6] *See* KMC Petition at 4 (BellSouth provides for termination penalties in North Carolina and Florida); *see also* Pacific Bell Notification of a Modification for the Centrex Returns Tariff-California (May 3, 1999) ("early termination fees of Centrex Returns tariff will not change"); Pacific Bell Notification of Rate and Date Changes to Value Promise Plus Tariff Revisions—California (May 18, 1999) (setting forth termination charges for Value Promise Plus plan); Pacific

only conclusion to be drawn is the ILEC's, desiring to maintain their monopolistic presence, are locking their customers into long-term contracts to prevent them from switching to price or service competitive alternatives.

III. ILEC TERMINATION PENALTIES PREVENT CONSUMERS FROM EXERCISING CHOICE IN LOCAL EXCHANGE SERVICE AS CONTEMPLATED BY THE ACT

There is no doubt that consumers want a choice in the local exchange market. In fact, in September 1998, JD Powers & Associates., a nationally respected business survey firm, found that 31 percent of Pacific Bell's customers would, if given a choice of local telephone service *that cost the same,* would switch service. JD Powers' survey dramatically illustrates the pent-up demand for choice in local telephone service, even if the alternative offers no improvement in pricing, service or features.

Termination penalties are a barrier to the competitive entry of CLECs who seek to provide competitive choices to consumers. Like KMC, MGC is encountering, with greater frequency, the existence of termination penalties contained in the contracts of customers who wish to switch their local service from the ILEC to the CLEC. Up to 25 percent of customers who desire to switch to MGC's services find they are subject to excessive termination penalties preventing them from switching to MGC. MGC signs up

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Bell "Notification of Rate and Date Changes for Value Promise Advantage 10 Calling Plan—California" (May 18, 1999) (providing for "acceleration" of payment for early termination of the term commitment.); Pacific Bell "Notification of Rate and Date Changes for Value Promise Advantage 5 Calling Plan—California" (May 18, 1999) ("To enforce the Term commitment, there will be an acceleration of $5for each remaining full month of the term commitment."); Pacific Bell "Notification of Usage Promotion" (May 19, 1999) ("Early termination fees will apply"); Pacific Bell "Notification of 3 Usage Promotions—California" (May 21, 1999) ("Customer must agree to a minimum of a 12 month commitment and maintain a minimum usage level.") (The aforementioned Pacific Bell Notifications are attached hereto as Exhibit A).

customers as fast as they can be provisioned, and there is no shortage of demand for MGC's price and service competitive products. Yet one quarter of MGC's prospective customers are thwarted from changing services by virtue of standard form clauses in contracts that they could not negotiate, and which in some cases, they entered into at a time when there was no choice in local service providers. These excessive termination penalties are unjustifiable and are designed solely to create a barrier to competition.

IV. THE COMMISSION SHOULD DECLARE ILEC TERMINATION PENALTIES UNLAWFUL, PROHIBIT EXCESSIVE TERMINATION PENALTIES IN FUTURE CONTRACTS AND REQUIRE THEIR REMOVAL FROM STATE TARIFFS

MGC concurs with KMC that the Commission possesses the legal authority to declare invalid contractual termination penalties as well as to require their removal from existing state tariffs. Congress's primary purpose in passing the 1996 amendments to the Act was to open all telecommunications markets, and particularly, local markets, to robust competition. Indeed, the Commission has consistently stated that the Act directs the Commission to open local exchange and exchange access markets to competitive entry and promote increased competition in telecommunications markets already open to competitions, such as long distance.[7] To achieve these goals, "[t]he Act directs [the Commission] and ... state [commissions] to remove no only statutory and regulatory impediments to competition, but economic and operation impediments as well."[8] MGC agrees with KMC that the Commission should use its section 253(d) preemption authority

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7 *See, e.g., Implementation of the Local Telecommunications Provisions in the 1996 Act,* CC Docket No. 96-98, *First Report and Order,* 11 FCC Rcd 15499, ¶ 3 (1996) (*"Local Competition First Report and Order"*).

8 *Id.*

or its general authority to implement the Act to prevent long term contracts with 100% termination penalties from foreclosing the development of competition in local markets.

The Commission should grant customers with existing contractual termination penalties the ability to opt out of those provisions provided that contract were executed prior to the effective entry of competitive carriers. Such a "Fresh Look" will provide consumers with a real opportunity to assess all available choices for local exchange service and make decisions based on legitimate economics bases: business needs, pricing, features and service.

MGC further notes that several states are acting to provide local exchange customer currently locked into long-term penalizing contracts a "Fresh Look" at alternative service providers without incurring an excessive penalty. Specifically, the states of California,[9] Ohio,[10] Nevada,[11] New Hampshire,[12] and Florida[13] have opened proceedings or have complaints pending which would open an examination of the long term contracts with excessive termination penalties and permit consumer relief from those contracts. Additionally, Texas has recently passed legislation that prohibits long

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9 *See Application of Pacific Bell for Limited Authority to Provide MTS/WATS/800 Contracts*, Cal. PUC Decision No. 93-06-032, *Opinion*, 49 CPUC2d 486 (June 3, 1993).

10 *See In the Matter of the Commission Approval of Fresh Look Notification*, Ohio PUC Case No. 97-717-TP-UNC, Finding and Order (Jul. 17, 1997).

11 *See* Nevada P.U.C. Docket No. 98-5014.

12 *See Freedom Ring, L.L.C.,* N.H. PUC DR 96-420, Order No. 22,798 (Dec. 8, 1997).

13 *See Intermedia Communications of Florida, Inc.,* Florida PSC Docket No. 921074-TP, *Final Order*, PSC-94-0285-FOF-TP (Mar. 10, 1994).

term contracts with early termination penalties until competition has been evidenced by a 271 certification.[14] It is preferable for the Commission to act as requested by KMC, and declare unlawful excessive termination penalties, prohibit excessive termination penalties in future contracts, and free existing customers from the adhesive shackles of their existing termination penalties. A national rule would be consistent with the goals and purposes of The Act—to provide for local competition and to foster the deployment of advanced communication technologies. The absence of a nationwide rule will only contribute to regulatory uncertainty and disparate treatment of consumers.

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[14] *See* Texas SB560 (1999)

V. CONCLUSION

For the foregoing reasons, MGC urges the Commission to grant the KMC Petition and issue a declaratory ruling that termination penalties imposed by ILECs are unlawful and requiring the removal of such penalties from ILEC state tariffs until such time as robust competition is widespread.

By: _____

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June 3, 1999

EXHIBIT A

Accessible

PACIFIC BELL

"Notification of a Modification for the Centrex Returns Tariff - California"

Date: May 3, 1999

Number: **CLECC99-143**

Contact: Pacific Bell Account Member

Pacific Bell is sending notification on intent to file tariff revisions to the Centrex Returns Tariff. The service will continue to be offered with the same requirements for the Usage component, but now this requirement may be met by any Usage plan, not the Value Promise Plus plan specifically. The planned tariff effective date is scheduled for July 2, 1999.

All terms, conditions, early termination fees, eligible classes of service, and ordering procedures of the Centrex Returns tariff will not change.

Pacific Bell reserves the right to make any modifications to or to cancel the above information prior to the proposed filing or effective dates. Should any modifications be made to the information, these modifications will be reflected in a subsequent letter. Should the information be canceled, Pacific Bell will send additional notification at the time of cancellation. Pacific Bell will incur no liability to the CLECs if such information, mentioned above, is canceled by Pacific Bell or is not ultimately approved by the commission.

Accessible

PACIFIC BELL

"Notification of Rate and Date Changes to Value Promise Plus[sm] Tariff Revisions – California"

Date: May 18, 1999

Number: **CLECC99-174**

Contact: Pacific Bell Account Manager

Pacific Bell sent notification of its intent to file tariff revisions to Value Promise Plus as referenced in **CLECC99-104**, dated March 26, 1999. This notice is to advise that the VPP revisions and rate changes will be effective June 1, 1999. For Option 1 and 3, mileage rates for Local Toll and Zone 3 calls are reduced. For Option 1, 2, 3, and 4, hourly rates for Custom 8 changed to a retail charge of $6.48, and VPP Option 1, 2, 3, and 4 increased the percent discounts for tem plans. The services are available for resale and the wholesale discount will apply.

The revisions will include an increase in the percent reduction for term customers. In addition, the Custom 8 hourly rate will be reduced to a retail charge of $6.48/hour. Flat rate pricing will be implemented for Options 1 and 3. Details are outlined below. The services are available for resale and the wholesale discount will apply.

Change to 6.5.4.F.1.e
Dial Station – Options 1,3
Mileage 13-71+

	Initial 18	Add'l
Day Rate	0.0342	0.0019
Evening Rate	0.0270	0.0015
Night Rate	0.0216	0.0012

Change to 6.5.4.F.1.f
Zone 3 – Options 1, 3
Mileage 13-16

	Initial 18	Add'l
Day Rate	0.0162	0.0009
Evening Rate	0.0126	0.0007
Night Rate	0.0009	0.0005

Change to 6.5.4.G.9.a
Options 1, 3

Minimum Monthly Usage	12 mo	Termination Charge
$0.00 - $149.99	39.8%	$100.00
$150.00 - $899.99	41.7%	$200.00
$900.00 - $1799.99	43.5%	$300.00
$1800.00 +	44.4%	$500.00

Minimum Monthly Usage	18 mo	Termination Charge
$0.00 - $149.99	41.7%	$100.00
$150.00 - $899.99	43.5%	$200.00
$900.00 - $1799.99	46.3%	$300.00
$1800.00 +	48.15%	$500.00

Minimum Monthly Usage	24 mo	Termination Charge
$0.00 - $149.99	43.5%	$100.00
$150.00 - $899.99	47.2%	$200.00
$900.00 - $1799.99	50.9%	$300.00
$1800.00 +	53.7%	$500.00

Change to 6.5.12.G.9.a
Options 2, 4

Minimum Monthly Usage	12 mo	Termination Charge
$0.00 - $149.99	39.8%	$100.00
$150.00 - $899.99	41.70%	$200.00
$900.00 - $1799.99	43.50%	$300.00
$1800.00 +	44.40%	$500.00

Minimum Monthly Usage	18 mo	Termination Charge
$0.00 - $149.99	41.7%	$100.00
$150.00 - $899.99	43.50%	$200.00
$900.00 - $1799.99	46.30%	$300.00
$1800.00 +	48.15%	$500.00

Minimum Monthly Usage	24 mo	Termination Charge
$0.00 - $149.99	43.5%	$100.00
$150.00 - $899.99	47.20%	$200.00
$900.00 - $1799.99	50.90%	$300.00
$1800.00 +	53.70%	$500.00

Pacific Bell reserves the right to cancel the information, mentioned above, at any time prior to the effective date. Should the information be canceled, Pacific Bell will send additional notification at the time of cancellation. Pacific Bell will incur no liability to the CLECs if the commission does not ultimately approve such information, mentioned above.

Accessible

PACIFIC BELL

"Notification of Rate and Date Changes for Value Promise℠ Advantage 10 Calling Plan – California"

Date: May 18, 1999

Number: **CLECC99-176**

Contact: Pacific Bell Account Manager

Pacific Bell sent notification of its intent to offer a new IntraLATA toll plan, Value Promise℠ Advantage 10 as referenced in **CLECC99-103**, dated March 26, 1999. This notice is to advise that the planned tariff effective date is scheduled for June 1, 1999 and there are changes to the calling plan rates. The VP Advantage 10 Calling Plan will be offered with a one or two year term plan, and is available for resale at the applicable wholesale discount.

Advantage 10

1. One year Term - All direct dial local toll calls are billed at an initial 30-second rate of $0.0325, and an additional six-second rate of $0.0065. The Pacific Bell Calling Card calls are billed at the usage rates shown in the table below, plus a calling card surcharge of $0.24 per call and, if applicable, a paystation service charge of $0.18 per call. The Card surcharge applies to Interexchange Carrier Calling/Credit Card; Pacific's Worldwide Business Calling Card, and the One Number Card. Surcharges for Operator handled calls will remain the same as today.

Calling Card A10 rates:

Time of Day	Initial 30 Seconds	Each Additional 6 seconds
Day	$.0850	$.0043
Evening	$.0650	$.0030
Night/Weekend	$.0380	$.0030

There is no monthly fee. Customers on a Term option commit to a $10 minimum monthly billed amount on the usage that is discounted by this plan (the Local Toll and Calling Card); if they use less they will still be billed the $10.

2. Two year Term - All direct dial local toll calls are billed at an initial 30- second rate of $.0305, and an additional six- second rate of $.0061. The Pacific Bell Calling Card calls are billed at the usage rates shown in the table above, plus a calling card surcharge of $.24 per call and, if applicable, a paystation service charge of $.18 per call. The Card surcharge applies to Interexchange Carrier Calling/Credit Card; Pacific's Worldwide Business Calling Card, and the One Number Card. Surcharges for Operator handled calls will remain the same as today. The Calling Card usage rates are the same as the One-Year Term rates.

There is no monthly fee. Customers on a Term commit to a $10 minimum monthly billed amount on the usage that is discounted by this plan (the Local Toll and Calling Card); if they use less they will still be billed the $10.

To enforce the Term commitment, there will be an acceleration of $10 for each remaining full month of the Term commitment. The number of "full months" remaining is the number of full bill rounds remaining on the Term; the amount is not prorated for a partial month. This charge relates to the $10 minimum monthly commitment. The acceleration applies if the end user disconnects service (the BTN with the plan), or removes the A5 or A10 plan from their account, during the Term committed. Minimum service required is a single line BTN. For example:

- End user disconnects the BTN with A10 on July 11th. End user's bill round is on the 25th, and the Term was due to expire on November 25th. There are 4 full months remaining on their Term, therefore they would owe $40 for acceleration.

Pacific Bell reserves the right to cancel the information, mentioned above, at any time prior to the effective date. Should the information be canceled, Pacific Bell will send additional notification at the time of cancellation. Pacific Bell will incur no liability to the CLECs if the commission does not ultimately approve such information, mentioned above.

Accessible

PACIFIC BELL

"Notification of Rate and Date Changes for Value Promise℠ Advantage 5 Calling Plan – California"

Date: May 18, 1999

Number: **CLECC99-178**

Contact: Pacific Bell Account Manager

Pacific Bell sent notification of its intent to offer a new IntraLATA toll plan, Value Promise℠ Advantage 5 as referenced in **CLECC99-102**, dated March 26, 1999. This notice is to advise that the planned tariff effective date is scheduled for June 1, 1999 and there are changes to the calling plan rates. The VP Advantage 5 Calling Plan will be offered with a one or two year term plan, and is available for resale at the applicable wholesale discount.

Advantage 5 – Retail

1. One year Term - All direct dial local toll calls are billed at an initial 30-second rate of $0.0335, and an additional six-second rate of $0.0067. The Pacific Bell Calling Card calls are billed at the usage rates shown in the table below, plus a calling card surcharge of $0.24 per call and, if applicable, a paystation service charge of $0.18 per call. The Card surcharge applies to: Interexchange Carrier Calling/Credit Card, Pacific's Worldwide Business Calling Card, and the One Number Card. Surcharges for Operator handled calls will remain the same as today.

Calling Card A5 rates:

Time of Day	Initial 30 Seconds	Each Additional 6 seconds
Day	$.0850	$.0043
Evening	$.0650	$.0030
Night/Weekend	$.0380	$.0030

There is no monthly fee. End users on a Term option commit to a $5 minimum monthly billed amount on the usage that is discounted by this plan (the Local Toll and Calling Card); if they use less they will still be billed the $5.

2. Two year Term - All direct dial local toll calls are billed at an initial 30 second rate of $.0315, and an additional six second rate of $.0063. The Pacific Bell Calling Card calls are billed at the usage rates shown in the table above, plus a calling card surcharge of $.24 per call and, if applicable, a paystation service charge of $.18 per call. The Card surcharge applies to: Interexchange Carrier Calling/Credit Card, Pacific's Worldwide Business Calling Card, and the One Number Card. Surcharges for Operator handled calls will remain the same as today. The Calling Card usage rates are the same as the One Year Term rates.

There is no monthly fee. Customers on a Term commit to a $5 minimum monthly billed amount on the usage that is discounted by this plan (the Local Toll and Calling Card); if they use less they will still be billed the $5.

To enforce the Term commitment, there will be an acceleration of $5 for each remaining full month of the Term commitment. The number of "full months" remaining is the number of full bill rounds remaining on the Term; the amount is not prorated for a partial month. This charge relates to the $5 minimum monthly commitment. The acceleration applies if the end user disconnects service (the BTN with the plan), or removes the A5 plan from their account, during the Term committed to. Minimum service required is a single line BTN. For example:

- End user disconnects the BTN with A5 on July 11th. End user's bill round is on the 25th, and the Term was due to expire on November 25th. There are 4 full months remaining on their Term, therefore they would owe a $20 acceleration.

Pacific Bell reserves the right to cancel the information, mentioned above, at any time prior to the effective date. Should the information be canceled, Pacific Bell will send additional notification at the time of cancellation. Pacific Bell will incur no liability to the CLECs if the commission does not ultimately approve such information, mentioned above.

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PACIFIC BELL

"Notification of Usage Promotion – California"

Date: May 19, 1999

Number: **CLECC99-185**

Contact: Pacific Bell Account Manager

Pacific Bell sent previous notification of its intent to offer a Custom 8 promotion to new and existing subscribers as referenced in Accessible Letter **CLECC99-119** dated April 2, 1999. This promotion will run from June 1, 1999 through August 16, 1999. This promotion is available for resale to CLEC Resellers in California and the wholesale discount will be applied in addition to the promotion rates.

Customers who meet the following criteria will receive promotional rates: new and existing customers with 12 months or less left on their current Value Promise℠ Plus (VPP) term plan, which includes IntraLATA Custom 8, Local Toll, ZUM Zone 3, and/or mechanized IntraLATA Calling Card, with the Flat Hourly Rate Option 2 or 4 only and has a minimum incremental monthly average VPP usage minutes of use per location or VPP Summary Bill BTN for Options One and Two within the first full two months billing cycles.

In the first option, customers will receive VPP toll and *Custom 8 retail rates of $.054 for 1,700 – 8,400 VPP minutes of use; $.050 for 8,401 – 17,000 VPP minutes of use; or $.047 per minute for 17,001 – 150,000 VPP minutes of use, depending on the agreement signed. *Custom 8 rates assume VPP rate change approved by CPUC on June 1, 1999.

In the second option, customers will receive VPP toll and **Custom 8 retail rates of $.047 for 8,333 – 17,000 VPP minutes of use; or $.043 for 17,001 – 150,000 VPP minutes of use, depending on the agreement signed. **Custom 8 rates assume VPP rate change approved by CPUC on June 1, 1999.

Each promotion purchased can have a maximum of twenty Billing Telephone Numbers (BTNs) included in this promotion at a single location for the second option. The customer must make a commitment of 24 months. To maintain qualification the customer must select, meet and maintain a minimum monthly average VPP Flat Hourly Rate Option 2 or 4 usage minutes of use commitment level range per location or VPP Summary Bill BTN within the first full two months billing cycles and over the life of the promotion agreement period. Early termination fees will apply.

Pacific Bell reserves the right to cancel the information, mentioned above, at any time prior to the effective date. Should the information be canceled, Pacific Bell will send additional notification at the time of cancellation. Pacific Bell will incur no liability to the CLECs if such information, mentioned above, is not ultimately approved by the commission.

Accessible

PACIFIC BELL

"Notification of 3Usage Promotions – California"

Date: May 21, 1999

Number: **CLECC99-188**

Contact: Pacific Bell Account Manager

Pacific Bell is sending notification of intent to file tariff revisions to offer 3 different usage promotions for the calling plan, Flat Rate Pro for Business. New and existing business inbound and outbound usage end users will be eligible to receive additional discounts on their usage rates. Additional information will be sent to notify CLECs of the usage rates for each of these different promotions. Customer must agree to a minimum of a 12-month commitment and maintain a minimum usage level.

The promotions will be offered from August 17, 1999 to April 14, 2000. These promotions are available for resale to CLEC Resellers in California and the applicable wholesale discount will be applied to the promotion rates.

Pacific Bell reserves the right to cancel the information, mentioned above, at any time prior to the effective date. Should the information be canceled, Pacific Bell will send additional notification at the time of cancellation. Pacific Bell will incur no liability to the CLECs if the commission does not ultimately approve such information, mentioned above.